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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 JOHN LAMBERT,) Civil No.07cv1769 JM (NLS)
11)
12 Plaintiff,) **ORDER GRANTING DEFENDANT'S**
13 v.) **EX PARTE APPLICATION TO**
14 L. ROBLES,) **CONTINUE PRETRIAL AND TRIAL**
15) **PROCEEDINGS [Doc. No. 21]**
16) *******
17) **FIRST AMENDED SCHEDULING**
18) **ORDER REGULATING DISCOVERY**
19) **AND OTHER PRE-TRIAL**
20) **PROCEEDINGS**

21 For good cause shown in Defendant's application, the court **GRANTS** the ex parte application to
22 continue certain pretrial and trial dates. Accordingly, the court **ORDERS**:

23 1. The telephonic Mandatory Settlement Conference currently set for July 7, 2009 with
24 Magistrate Judge Nita L. Stormes is **VACATED** and **RESET** for **November 16, 2009 at 2:30 pm.**
25 **Defense counsel shall make arrangements for incarcerated parties to appear telephonically.**

26 Counsel or any party representing himself or herself shall submit confidential settlement briefs directly
27 to chambers no later than **November 9, 2009.** Please see attached settlement conference procedures.

28 2. All pretrial motions must be filed on or before **August 28, 2009.**

3. Counsel and unrepresented parties shall comply with the pre-trial disclosure requirements
of Federal Rule of Civil Procedure 26(a)(3) on or before **December 11, 2009.**

4. Counsel and unrepresented parties shall meet and take the action required by Local Rule
16.1(f)(4) on or before **December 18, 2009.**

CHAMBERS OF MAGISTRATE JUDGE NITA L. STORMES**SETTLEMENT CONFERENCE PROCEDURES**

ATTENDANCE: All parties, adjusters for insured defendants, and other representatives of a party **having full and complete authority to enter into a binding settlement**, and the principal attorneys responsible for the litigation, must be present and legally and factually prepared to discuss settlement of the case. Full authority to settle means that the individuals at the settlement conference be authorized to fully explore settlement options and to agree at that time to any settlement terms acceptable to the parties. *Heileman Brewing Co., Inc. v. Joseph Oat Corp.*, 871 F.2d 648, 653 (7th Cir. 1989). The person needs to have “unfettered discretion and authority” to change the settlement position of a party. *Pitman v. Brinker Int’l, Inc.*, 216 F.R.D. 481, 485-486 (D. Ariz. 2003). One of the purposes of requiring a person with unlimited settlement authority to attend the conference is that the person’s view of the case may be altered during the face-to-face conference. *Pitman*, 216 F.R.D. at 486. Limited or sum certain authority is not adequate. *Nick v. Morgan’s Foods, Inc.*, 270 F.3d 590, 595-597 (8th Cir. 2001). Failure of any of the aforementioned to appear **in person** will result in the imposition of sanctions. Where settlement authority rests with a governing body, counsel shall propose special arrangements in advance for securing timely authority to settle.

SETTLEMENT CONFERENCE BRIEFS: All parties are required to lodge a **confidential** settlement brief **three court days** prior to the Settlement Conference. Settlement briefs should not exceed ten (10) pages in length, double spaced, exclusive of exhibits, if any. Copies of all documents that might enhance the productivity of negotiations (e.g., contracts, key correspondence or memos, reports of experts, photos, medical bills, wage loss statements, selected pages from deposition transcripts or responses to other discovery) should be attached as exhibits to the settlement briefs with significant portions highlighted for easy reference. Parties may also attach as exhibits helpful judicial opinions and information about the settlement or judgment value of comparable cases.

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**IN ADDITION TO THE ABOVE INFORMATION, EACH BRIEF
SHALL SET FORTH AT A MINIMUM, THE FOLLOWING
“REQUIRED” CONFIDENTIAL INFORMATION:**

* * * *

- (1) A brief analysis of the key issues involved in the litigation;
- (2) A description of the strongest and weakest legal and factual points in the party’s case;
- (3) A description of the strongest and weakest legal and factual points in the opponent’s case;
- (4) The status of any settlement negotiations, including the last settlement proposal made by each party; and
- (5) The settlement proposal that the party is willing to make in order to conclude the matter and spare the further expense of litigation.

Parties should hand deliver, mail or email the **original only** of settlement briefs directly to chambers. FAX briefs will not be accepted. Briefs must be **received in chambers** no later than **three (3) court days** before the Settlement Conference. ***Settlement briefs are confidential and shall not be served on opposing parties nor shall they be filed with the Clerk of the Court.*** Briefs submitted by email should be sent to efile_stormes@casd.uscourts.gov, and briefs submitted by mail should be sent to:

Honorable Nita L. Stormes
United States Magistrate Judge
U.S. Courthouse
940 Front Street, Room 1118
San Diego, California 92101-8921